

## INTERFERENCE DIGEST

Interference No. 105,583

Paper No.

Name: Thomas E. Broome et al.

Serial No.: 09/723,003

Patent No. 7,094,249 granted 08/22/06

Title: Distal protection device and method

Filed: 11/27/00

Interference with Gilson et al.

### DECISION ON MOTIONS

Administrative Patent Judge, \_\_\_\_\_ Dated, \_\_\_\_\_

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### FINAL DECISION

Board of Patent Appeals and Interferences, \_\_\_\_\_ Dated, \_\_\_\_\_

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Court, \_\_\_\_\_ Dated, \_\_\_\_\_

### REMARKS

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This should be placed in each application or patent involved in interference in addition to the interference letters.



# UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

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Filed by: Judge Sally C. Medley  
Telephone: 571-272-4683  
Facsimile: 571-273-0042

Patentees: BROOME  
Application No.: 09/723,003 now Patent No.  
7,094,249 granted 08/22/06  
Filed: 11/27/00  
For: Distal protection device and method

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,583.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/SALLY C. MEDLEY/  
Administrative Patent Judge

Mail Stop Interference  
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Filed 30 January 2008

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

PAUL GILSON, EAMON BRADY, PADRAIG MAHER,  
DAVID VALE and CHARLES TAYLOR

Junior Party  
(Application 10/058,828),

v.

THOMAS E. BROOME, JOHN M.K. DANIEL and  
THOMAS R. HEKTNER

Senior Party  
(Patent 7,094,249).

Patent Interference No. 105,583 (SCM)  
(Technology Center 3700)

**DECLARATION - Bd.R. 203(b)<sup>1</sup>**

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

**Part B. Judge managing the interference**

Administrative Patent Judge Sally C. Medley has been designated to manage the interference. Bd. R. 104(a).

**Part C. Standing order**

A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION. The STANDING ORDER applies to this interference.

**Part D. Initial conference call**

A telephone conference call to discuss the interference is set for **11:00 a.m. on 1 April 2008** (the Board will initiate the call).

No later than **four business days** prior to the conference call, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the

schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. Counsel should be prepared to justify any request for a shorter or longer period.

#### **Part E. Identification and order of the parties**

##### Junior Party

Named inventors: PAUL **GILSON**, Moycullen, Ireland  
EAMON BRADY, Elphin, Ireland  
PADRAIG MAHER, Birr, Ireland  
DAVID VALE, Dublin, Ireland  
CHARLES TAYLOR, Waringlid, United Kingdom

Involved Application: 10/058,828, filed 30 January 2002

Title: Embolic protection device

Assignee: SALVIAC Limited

##### Senior Party

Named Inventors: THOMAS E. **BROOME**, Hopkins, Minnesota  
JOHN M.K. DANIEL, Plymouth, Minnesota  
THOMAS R. HEKTNER, Medina, Minnesota

Involved Patent: US 7,094,249, issued 22 August 2006, based on application 09/723,003, filed 27 November 2000

Title: Distal protection device and method

Assignee: Boston Scientific Scimed, Inc.

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

**Part F. Count and claims of the parties**

Count 1

Claim 44 or claim 48 or claim 85 or claim 92 or claim 97 of Gilson's  
application 10/058,828

or

Claim 1 or claim 2 or claim 5 or claim 8 or claim 9 of Broome's  
U.S. Patent 7,094,249

The claims of the parties are:

Gilson: 44, 48, 49, 53, 65, 67, 68, 85, 92, 93, and 96-99

Broome: 1-11

The claims of the parties which correspond to Count 1 are:

Gilson: 44, 48, 49, 53, 65, 67, 68, 85, 92, 93, and 96-99

Broome: 1-11

The claims of the parties which do not correspond to Count 1, and therefore are not involved in the interference, are:

Gilson: none

Broome: none

The parties are accorded the following benefit for Count 1:

Gilson: 09/921,596, filed 6 August 2001, now  
patent 6,432,122, issued 13 August  
2002

09/188,472, filed 9 November 1998,  
now patent 6,336,934, issued  
8 January 2002

Ireland 98 0267, filed 8 April 1998

Broome: 09/035,740, filed 5 March 1998, now  
patent 6,152,946, issued 28 November  
2000

**Part G. Heading to be used on papers**

The following heading must be used on all papers filed in this interference,  
see SO & 106.1.1:

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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PAUL GILSON, EAMON BRADY, PADRAIG MAHER,  
DAVID VALE and CHARLES TAYLOR  
Junior Party  
(Application 10/058,828),

v.

THOMAS E. **BROOME**, JOHN M.K. DANIEL and  
THOMAS R. HEKTNER  
Senior Party  
(Patent 7,094,249).

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Patent Interference No. 105,583 (SCM)  
(Technology Center 3700)

## **Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Sally C. Medley/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Copy U.S. Patent 7,094,249  
Copy U.S. Patent 6,432,122  
Copy U.S. Patent 6,336,934  
Copy U.S. Patent 6,152,946  
Copy of claims of 10/058,828

Revised 3 January 2006

cc (via overnight delivery):

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